

## REMARKS

This paper is submitted in response to the Office action mailed on December 13, 2007. This paper amends claims 1-16, 26, 40, 46 and 49. Accordingly, after entry of this Amendment and Response, claims 1-52 will be pending.

### I. Specification

Paragraph [1036] of the specification has been amended to use the trademark JAVA as suggested by the Office action and in a manner respecting its validity as a trademark.

Additionally, the specification has been amended to remove the embedded hyperlink and/or browser executable from paragraph [1007]. The text, however, in the paragraph appears the same.

Applicant believes the specification is in allowable form and such indication is respectfully requested.

### II. Claim Rejections Under 35 U.S.C. § 101

Claims 1-15, 24, 38, 40-45 and 49-52 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

The Office action suggests that claims 1-15 recite a "software tool" which is software per se and a non-statutory embodiment. In response, claims 1-5 have been amended to specify a tangible storage medium having computer readable program code. As amended herein, claims 1-15 are directed toward statutory subject matter in compliance with 35 U.S.C. § 101, are now in form for allowance, and such indication is respectfully requested.

Additionally, the Office action suggests that claims 24 and 38 recite "machine readable media" defined in the Specification at [1095] to include a propagated signal, that independent claim 40 recites "a computer program product" defined in the Specification at [1095] to include a propagated signal... carrier waves and that claims 49-52 recite "machine readable media" defined in the Specification at [1095] to include a propagated signal... carrier waves which are non-statutory embodiments. In response, paragraph [1095] has been amended to delete the reference to "carrier waves" and thus overcomes the rejection.

### III. Claim Rejections Under 35 U.S.C. § 103

Claims 1-52 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 7,103,877 to Arnold et al (hereinafter "Arnold") in view of U.S. Patent No. 6,374,367 to Dean et al (hereinafter "Dean"). A prima facie case of obviousness requires that "the prior art reference (or references when combined) must teach or suggest all the claim limitations." See MPEP § 2143. For at least the reasons cited below, it is respectfully

submitted that the combination of Arnold and Dean do not teach or suggest all limitations of the claims and therefore cannot make any of the above listed claims obvious.

***A. Claims 1, 16, 26, 40, 46 and 49 are patentable over Arnold in view of Dean because the combination of Arnold and Dean do not disclose attributing runtime events to source-level data objects describing units of data identifiable in source code***

Claims 1, 16, 26, 40, 46 and 49 are independent claims from which claims 2-25, 27-39, 41-45, 47-48 and 50-51 depend. As such, the initial arguments will focus on independent claims 1, 16, 26, 40, 46 and 49 as amended herein.

Applicant respectfully submits that Arnold does not teach or suggest attributing “runtime events to source-level data objects describing units of data identifiable in source code” as recited by claim 1 and similarly recited by claims 16, 26, 40, 46 and 49, as amended herein. The Office action suggests that Arnold discloses “a software tool that, based at least in part on a predefined association between an instruction instance in executable code and a representation of a source-level data object language construct corresponding thereto, attributes runtime events to source-level data objects describing units of data identifiable in source code” as recited in amended claims 1, 16, 26, 40, 46 and 49. It is respectfully submitted that Arnold does not disclose “a representation of a source-level data object construct” as set out in claim 1 and similarly recited by claims 16, 26, 40, 46 and 49 and does not disclose source-level data objects in anyway.

Instead, Arnold discloses a mechanism to collect a statistical sample of information collected at all identified program points. *See Arnold, col. 2, lines 20-23*. Additionally, in Arnold, “it is assumed that the information is being collected from a compiled binary program.” *See Arnold, col. 3, lines 1-3*. Arnold does not provide any discussion regarding source-level data objects because the information collected in Arnold is collected from a compiled binary program and does not involve source code or units of data identifiable in source code as recited in amended claims 1, 16, 26, 40, 46 and 49. Stated differently, Arnold does not disclose source-level data objects because Arnold collects information from a compiled binary program and a compiled binary program does not produce or provide source-level information or units of data identifiable in source code. Thus, Arnold does not disclose source-level data objects describing units of data identifiable in source code and does not disclose attributing runtime events to source-level data objects.

Arnold also discloses inserting yield points at distinguished program points. *See Arnold, col. 3, lines 17-18*. Arnold states, “a wide variety of sampling information may be collected when a yield point is taken. That is, a low-level mechanism exists that is available to map from a taken yield point to a method.” *See Arnold, col. 5, lines 14-17*. Although Arnold maps the collected information, the information is mapped to a method. Accordingly,

Arnold does not disclose or describe in any way, attributing runtime events to source-level data objects describing units of data identifiable in source code.

Next, Applicant respectfully submits that Dean does not teach or suggest attributing “runtime events to source-level data objects describing units of data identifiable in source code” as recited by claim 1 and similarly recited by claims 16, 26, 40, 46 and 49, as amended herein. The Office action suggests that Dean discloses “a software tool that, based at least in part on a predefined association between an instruction instance in executable code and a representation of a source-level data object language construct corresponding thereto, attributes runtime events to source-level data objects describing units of data identifiable in source code” as recited in amended claims 1, 16, 26, 40, 46 and 49. It is respectfully submitted that Dean does not disclose attributing runtime events to source-level data objects. Indeed, Dean does not discuss source-level data objects describing units of data identifiable in source code.

Instead, Dean is directed to monitoring the performance of operating computer systems by recording a sample of relevant information from transactions and relating the sampled events to individual transactions. Dean stores state information but does not attribute the stored information to source-level data objects. Dean “shows the details of how a buffer 300 can be allocated for storing state information...the buffer includes a status field, an address field, a context field, a transaction source field, an instruction field, a latency field...” See *Dean*, col. 5, lines 59-64. Dean uses the buffer to store information about the state and the transaction associated with the state. In Dean, “the status field 310 stores state information pertaining to the particular transaction being processed... the address field 320 can store the virtual and/or physical addresses associated with the transaction....” See *Dean*, col. 5, lines 65-67, col. 6, lines 5-7. Dean uses the buffer to store this information, thus eliminating any reason to map information to source code. Additionally, Dean has no reason or motivation to map information to the source code as Dean monitors the performance of an operating computer system and is not directed to optimizing code performance. Accordingly, Dean does not disclose or describe in any way, attributing runtime events to source-level data objects describing units of data identifiable in source code.

For at least the reasons set forth above, independent claims 1, 16, 26, 40, 46 and 49, as amended herein, are patentable under 35 U.S.C. § 103 over Arnold in combination with Dean.

***B. Dependent claims are non-obvious***

Dependent claims 2-25, 27-39, 41-45, 47-48 and 50-51 depend upon and contain all the limitations of independent claims 1, 16, 26, 40, 46 and 49. Therefore for at least the reasons mentioned above, the combination of Arnold and Dean fails to teach or suggest

each and every limitation of dependent claims 2-25, 27-39, 41-45, 47-48 and 50-51. As such dependent claims 2-25, 27-39, 41-45, 47-48 and 50-51 are patentable under 35 U.S.C. § 103 over Arnold in combination with Dean.

IV. Conclusion

The Applicant thanks the Examiner for his thorough review of the application. The Applicant respectfully submits the present application, as amended, is in condition for allowance and respectfully requests the issuance of a Notice of Allowability as soon as practicable.

The Applicant believes no fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 as necessary.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney.

Dated: March 13, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gregory P. Durbin', is written over a horizontal line.

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